

**REMARKS**

By the present amendment, claims 1, 3, 28, 29 and 44 to 57 are pending in the application.

**Support For Claim**

Support for the new claims is as follows.

**Claim 44**

New independent claim 44 is a combination of prior independent claim 30 and prior dependent claim 42.

**Claim 45**

New independent claim 45 is a combination of prior independent claim 30 and prior dependent claim 43.

**Claim 46**

New dependent claim 46 corresponds to prior dependent claim 31.

**Claim 47**

New independent claim 47 is a combination of prior independent claim 32 and prior dependent claim 42.

**Claim 48**

New independent claim 48 is a combination of prior independent claim 32 and prior dependent claim 43.

**Claims 49-57**

New dependent claims 49-57 correspond to prior dependent claims 33 to 41.

### **Allowable Subject Matter**

The Office Action advised at page 4 that claims 42 and 43 are objected to as being dependent on a rejected base claim, but would be allowable if rewritten in independent form including all the limitations of the base claim and any intervening claims.

New independent claim 44 is a combination of prior dependent claim 42 and prior independent claim 30.

New independent claim 45 is a combination of prior dependent claim 43 and prior independent claim 30.

New independent claim 47 is a combination of prior dependent claim 42 and prior independent claim 32.

New independent claim 48 is a combination of prior dependent claim 43 and prior independent claim 32.

Therefore, new independent claims 44, 45, 47 and 48 should be allowable.

New dependent claims 46, 49-52 and 54-57 are dependent from new independent claims 44, 45, 47 and/or 48.

Therefore, new dependent claims 46, 49-52 and 54-57 should also be allowable.

### **§103**

Claims 1, 3 and 28-41 were rejected under 35 U.S.C. §103(a) as being unpatentable over European Patent No. 466606, with U.S. Patent No. 4,991,499 to Kuroda et al. used as a teaching reference, in view of either Shida et al. or Meredith et al.

By the present amendment, claims 30-41 have been canceled.

As previously discussed, claims 44-52 and 54-57 should be allowable because of the advice of the Office Action at page 4 that dependent claims 42 and 43 (now canceled) would be allowable if rewritten in independent form.

This rejection, as applied to claims 1, 3, 28, 29 and 53, is respectfully traversed.

#### **Patentability**

The Office Action recited Kuroda, column 1, lines 16 to 22, which reads:

"The  $\alpha+\beta$  type titanium alloys include ... Ti-3Al-2.5V, Ti-6Al-4V... and the like such as (1) small amount of platinum group elements added alloys and (2) platinum group elements plus small amount of Ni, Co, W, Mo added alloys." ("(1)" and "(2)" are inserted for reference in the following discussion).

The Office Action stated that "the underlined portion indicates that the alloys as disclosed in the '606 reference are alpha+beta alloys".

However, the Office Action is incorrect because Kuroda, column 1, lines 15 to 16 states that "The  $\alpha$  type titanium alloys include Ti-0.15Pd, Ti-0.8Ni-0.3Mo...".

According to this statement of Kuroda, Ti-0.15Pd, simply composed of Ti and a small amount of platinum group element (Pd), is an  $\alpha$  type titanium alloy, not an  $\alpha+\beta$  type titanium alloy.

Therefore, portion (1) of the Office Action's recited sentence should correctly read -- (1) small amount of platinum group elements further added alloys... .

In the same sentence, phrases described in the same context should read in the same meaning.

Therefore, the Office Action's recited sentence should correctly read:

...The  $\alpha+\beta$  type titanium alloys include... Ti 3Al-2.5V, Ti-6Al-4V... and the like such as (1) small amount of platinum group elements further added alloys and (2) platinum group elements plus small amount of Ni, Co, W, Mo further added alloys... .

Namely, portion (1) of the recited sentence means alloys based on "...Ti-3Al-2.5V, Ti-6Al-4V..." and further containing small amount of platinum group elements.

Similarly, portion (2) of the recited sentence means alloys based on "...Ti-3Al-2.5V, Ti-6Al-4V..." and further containing platinum group elements plus small amount of Ni, Co, W, Mo.

It should be also noted that as argued in the response to the previous Office Action, the '606 reference,

page 3, line 32, describes alloys containing  $Ti_2Ni$  precipitates, not containing  $\beta$  phase.

Therefore, the Office Action is incorrect in asserting that the '606 reference describes  $\alpha+\beta$  type titanium alloys based on the disclosure of Kuroda, because the alloys described in the '606 reference are those mainly composed of  $\alpha$  phase or  $\alpha$  type titanium alloys as already argued in the response to the previous Office Action.

Therefore, claims 1, 3, 28, 29 and 53 are not disclosed or suggested by the combined disclosures of the cited references including Kuroda, but are patentable thereover.

As previously discussed, it is believed that claims 44-52 and 54-57 are allowable because of the indication at page 4 of the Office Action of allowable subject matter.


CONCLUSION

It is submitted that in view of the present amendment and foregoing remarks, the application is now in condition for allowance. It is therefore respectfully requested that the present amendment be entered and the application, as amended, be allowed and passed for issue.

Respectfully submitted,

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